

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION**

<b>Samuel Davis,</b>	)	<b>C/A No. 8:06-2312-CMC-BHH</b>
	)	
<b>Plaintiff,</b>	)	<b>OPINION and ORDER</b>
	)	
<b>v.</b>	)	
	)	
<b>Eli Lily and Company,</b>	)	
	)	
<b>Defendant.</b>	)	
	_____	
	)	

Plaintiff, proceeding *pro se*, filed this pharmaceutical products liability action against Defendant in state court on June 12, 2006. Defendant removed the case to federal court on August 17, 2006, and filed a motion for summary judgment on August 27, 2007. Plaintiff filed a response to the motion on November 20, 2007.

In accordance with 28 U.S.C. § 636(b) and Local Civil Rule 73.02 (B)(2)(d), DSC, this matter was referred to United States Magistrate Judge Bruce Howe Hendricks for pre-trial proceedings and a Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b). The court reviews the Report and Recommendation only for clear error in the absence of an objection. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.”) (citation omitted).

On December 13, 2007, the Magistrate Judge issued a Report recommending that Defendant's motion for summary judgment (docket entry # 40) be granted and Plaintiff's complaint dismissed with prejudice. She further recommended that Defendant's motion to compel (docket entry # 47) be denied as moot. The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and Recommendation and the serious consequences if he failed to do so. In response to the Report and Recommendation, Plaintiff filed a letter motion "asking the court to dismiss case Davis v. Eli Lilly & Co 3:06-2312." He offered no specific objection even if this consent to dismissal is deemed an "objection" to the entry of summary judgment.

After reviewing the motion, the entire record, the applicable law, and the Report and Recommendation of the Magistrate Judge, the court finds no clear error. Accordingly, the court adopts and incorporates the Report and Recommendation by reference into this order.

Therefore, it is hereby ordered that the summary judgment motion of Defendant (docket entry # 40) is granted; and it is,

Further ordered that the Plaintiff's complaint is dismissed with prejudice; and it is

Further ordered that Defendant's motion to compel (docket entry # 47) is denied as moot; and it is,

Further ordered that Defendant's motion to dismiss (docket entry # 60) is denied as moot.

**IT IS SO ORDERED.**

s/ Cameron McGowan Currie  
CAMERON McGOWAN CURRIE  
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina  
January 7, 2008

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